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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,832	01/30/2004	Nien-Lun Li	BHT-3230-83	3065

7590                    08/11/2004

TROXELL LAW OFFICE PLLC  
SUITE 1404  
5205 LEESBURG PIKE  
FALLS CHURCH, VA 22041

EXAMINER	
DUONG, THO V	
ART UNIT	PAPER NUMBER
3743	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/766,832	LI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tho v Duong	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachments(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains phrase, which can be implied, such as "the present invention is". Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: the heading and sub-heading in the specification should be bolded and capitalized.

Appropriate correction is required.

### ***Claim Objections***

Claims 1-7 objected to because of the following informalities: the term "plurality of" constitutes the noun in plural form. Therefore, the verb as follows the noun should agree in plural form as well. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3743

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyler et al. (US 6,401,807). Wyler discloses (figure 7 and figure A (as bellow)) a heat sink type cooling device comprising a base (38) and a plurality of fins (14) extending upward from the end surface of the base; the plurality of fins divided into more than one heat zone, wherein there is drop height between each two zones; the plurality of fins are frame by bending a metal plate; the fins are constructed by more than one vertical plate and plurality of horizontal plate (12) where the plurality of horizontal plates are connected to the vertical plate by turns; and each of the horizontal plate, which is not connected to the end surface of the base, is punched with a rectangular hole (16). As regarding claims 5 and 6, the limitations of whether the fins are punched first then are bended to form heat zone or these steps occur simultaneously, are not germane to the issue of patentability of the device itself. “Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this instant case, the heat sink in the product-by-process claim is the same as or obvious from the heat sink of the prior art, Therefore, the claim is unpatentable even though the prior product was made by a different process.

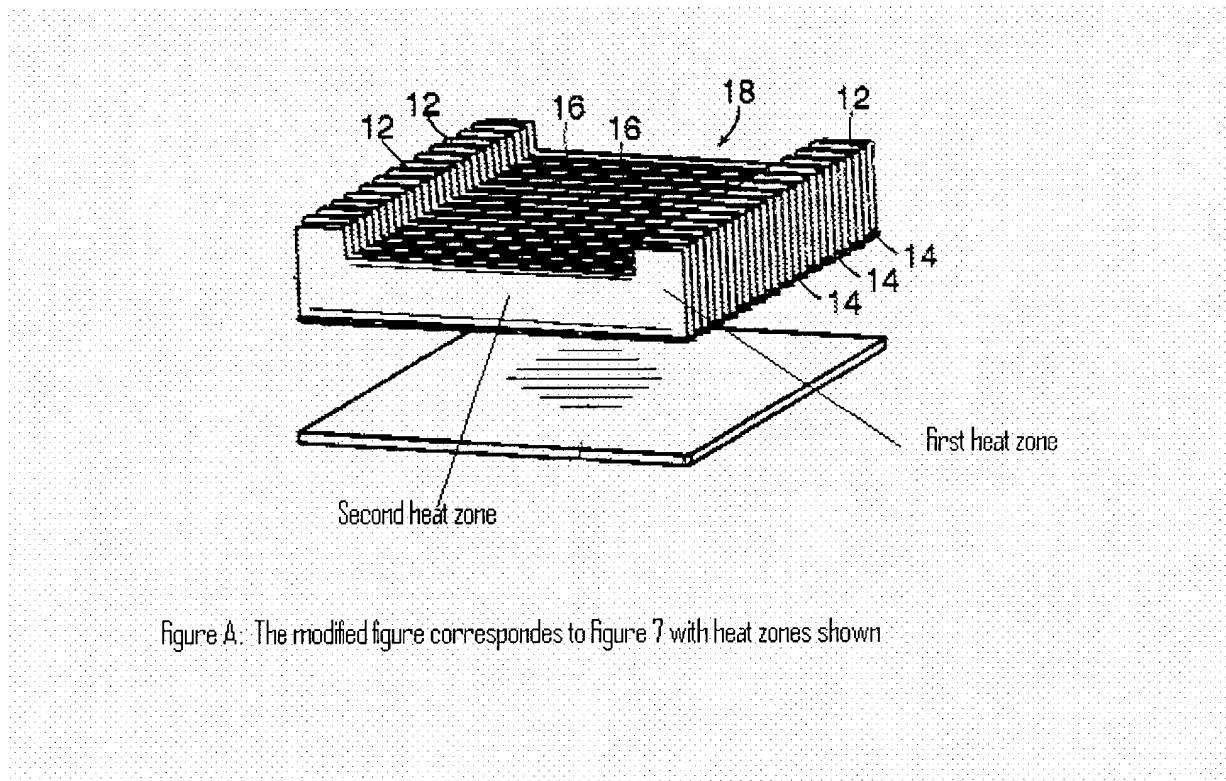


Figure A: The modified figure corresponds to Figure 7 with heat zones shown

Claims 1,3 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Lee et al. (US 6,633,484). Lee discloses (figure 2) a heat sink type cooling device comprising a base (270) and a plurality of fins (250,292) including vertical plate and horizontal plate and the fins extended upward from the end surface of the base; the fins are divided into more than one heat zones (250,292), wherein there is drop height between each two zones and each zone (250,292) is separately framed by bending a metal plate.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McCullough (US 6,367,541) discloses a conforming heat sink assembly.

H. A. Nelson et al. (US 3,180,404) discloses a cooling electronic heat producing elements.

Woerner et al. (US 6,748,656) discloses a folded-fin heat sink.

Overholt (US 3,744,559) discloses a heat transfer device with fins of different height.

Lin et al. (US 6,397,931) discloses a finned heat exchanger.

Kuo (US 6,125,921) discloses a radiator with folded fins.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Tho Duong whose telephone number is (703) 305-0768. The examiner can normally be reached on from 9:30-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennet, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

TD

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August 6, 2004



Tho Duong

Patent Examiner.